



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 29 2005

REPLY TO THE ATTENTION OF

(AE-17J)

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Gordon Stewart  
Vice President, Engineering  
Anchor Glass Container Corporation  
4343 Anchor Plaza Parkway  
Tampa, Florida 33634

Re: In the Matter of Anchor Glass  
Container Corporation  
CAA Docket No. **CAA-05- 2005-0058**

Dear Mr. Stewart:

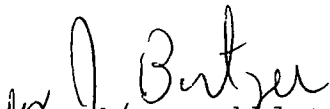
I have enclosed a complaint filed against Anchor Glass Container Corporation, under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d). The complaint alleges violations of the Indiana State Implementation Plan and Anchor's Part 70 Operating Permit No. T029-6043-00007.

As provided in the complaint, if you would like to request a hearing, you must do so in your answer to the complaint. Please note that if you do not file an answer with the Regional Hearing Clerk within 30 days of your receipt of this complaint, a default order may be issued and the proposed civil penalty will become due 30 days later.

In addition, whether or not you request a hearing, you may request an informal settlement conference. If you wish to request a conference, or if you have any questions about this

matter, please contact, Deborah Carlson, Associate Regional Counsel (C-14J), 77 West Jackson Boulevard, Chicago, Illinois 60604, at (312)353-6121.

Sincerely yours,



Stephen Rothblatt, Director  
Air and Radiation Division

Enclosures

cc: David McIver, Chief  
Office of Enforcement Air Section  
Indiana Department of Environmental Management

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF:

) Docket No.

)

Anchor Glass Container Corp.

) Proceeding to Assess a Civil

200 West Bellevue Drive

) Penalty under Section 113(d)

Lawrenceberg, Indiana, 47025,

) of the Clean Air Act,

) 42 U.S.C. § 7413(d)

Respondent.

)

)

CAA-05- 2006 - 0058

*JSW*

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REGION 5

Administrative Complaint

1. This is an administrative proceeding to assess a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. The Complainant is, by lawful delegation, the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, Chicago, Illinois.

3. The Respondent is Anchor Glass Container Corporation (Anchor Glass), a corporation doing business in Indiana.

Statutory and Regulatory Background

4. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the Act, 42 U.S.C. § 7661 et. seq., no source subject to Title V may operate except in compliance with a Title V permit.

5. U.S. EPA granted final full approval to Indiana's Title V operating permit program on December 4, 2001, pursuant to 40 C.F.R. Part 70. The program became effective on November 30, 2001. 66 Fed. Reg. 62969. Pursuant to 326 IAC 2-7-3, no Part 70

source may operate after the time that it is required to submit a timely and complete application except in compliance with a Part 70 permit issued under the rule.

6. On July 16, 1982, U.S. EPA approved 326 Indiana Administrative Code (IAC) 6-1-2 as part of the federally enforceable state implementation plan (SIP) for Indiana. 47 Fed. Reg. 30972.

7. 326 IAC 6-1-2 requires that the particulate matter (PM) emissions from the raw materials batch storage process and the raw materials batch silo not exceed 0.03 grains per dry standard cubic foot of exhaust air.

8. The Administrator of U.S. EPA (the Administrator) may assess a civil penalty of up to \$27,500 per day of violation up to a total of \$220,000 for SIP or Title V permit violations that occurred from January 31, 1997 through March 15, 2004, and may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19 (2004).

9. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

10. The Administrator and the Attorney General of the

United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this complaint.

### **General Allegations**

11. Anchor Glass owns and operates a container glass manufacturing facility located at 200 West Belleview Drive, Lawrenceburg, Indiana 47025.

12. Anchor Glass manufactures glass containers with raw materials consisting primarily of sand (silica), soda ash, limestone, and broken glass (cullet).

13. Anchor Glass owns and operates a raw materials batch storage process, controlled by four baghouses identified as ST6, ST7, ST8, and ST9.

14. Anchor Glass owns and operates a raw materials batch weighing and mixing process, controlled by three baghouses identified as ST10, ST11 and ST12.

15. Anchor Glass owns and operates a raw materials batch silo, controlled by two baghouses identified as ST4 and ST5.

16. Anchor Glass owns and operates an underground conveyor, controlled by a baghouse identified as ST3.

17. Indiana Department of Environmental Management (IDEM) issued to Anchor Glass a Part 70 Title V Operating Permit No. T029-6043-00007, which became effective on December 29, 1999.

18. On or about April 21, 2003, IDEM issued an Amended Notice of Violation to Anchor Glass, citing specified violations of Respondent's Part 70 permit and the Indiana SIP.

19. On or about June 23, 2004, Anchor Glass and IDEM entered into an Agreed Order based on the violations cited in the April 21, 2003 Amended Notice of Violation.

20. On November 4, 2004, U.S. EPA and IDEM conducted a Clean Air Act compliance inspection at the Lawrenceburg, Indiana facility.

21. On February 8, 2005, U.S. EPA issued to Anchor Glass a Notice of Violation/Finding of Violation (NOV/FOV) alleging that Anchor Glass violated numerous Title V permit conditions and the Indiana SIP.

22. On March 15, 2005, U.S. EPA and Anchor Glass held a conference to discuss the February 8, 2004 NOV/FOV.

**Count I - Emission Violations**

23. Complainant incorporates paragraphs 1 through 22 of this complaint, as if set forth in this paragraph.

24. Conditions D.3.1 and D.5.1 of Respondent's Part 70 permit and 326 IAC 6-1-2 of Indiana's SIP require that particulate matter emissions from the raw materials batch storage process and raw materials batch silo not exceed 0.03 grains per dry standard cubic foot of exhaust air.

25. Conditions D.3.4 and D.5.4 of Respondent's Part 70 permit require that Respondent operate baghouses ST6, ST7, ST8, ST9, and ST4 respectively, when the emission units are operating, to comply with the emission limit in Conditions D.3.1 and D.5.1.

26. Beginning in November 2002, Respondent discontinued operating baghouses ST6, ST7, ST8, and ST9, which are required to control emissions from the raw materials batch storage process.

27. From November 2002 through at least March 2005, Respondent continued to operate its raw materials batch storage process without operating baghouses ST6, ST7, ST8 and ST9.

28. Beginning in January 2003, Respondent discontinued operating baghouse ST4, which is required to control emissions from the raw materials batch silo.

29. From January 2003 through at least March 2005, Respondent continued to operate its raw materials batch silo without operating baghouse ST4.

30. Respondent's failure to operate baghouses ST6, ST7, ST8, ST9 and ST4, while continuing to operate the raw materials batch storage process and raw materials batch silo, as set forth above, constitutes violations of Conditions D.3.1, D.5.1, D.3.4 and D.5.4 of Respondent's Part 70 permit, 326 IAC 6-1-2 of Indiana's SIP and Section 502(a) of the Act, 42 U.S.C. § 7661a(a).

#### **Count II - Visible Emissions Recording**

31. Complainant incorporates paragraphs 1 through 22 of this complaint, as if set forth in this paragraph.

32. Conditions D.6.5(a), D.5.5(a), D.4.5(a), and D.3.5(a) of Respondent's Part 70 permit require that Respondent record daily visible emission readings for baghouse stacks: ST3, ST4, ST5, ST10, ST11, ST12, ST6, ST7, ST8, and ST9.

33. Conditions D.6.9(a), D.5.9(a), D.4.9(a), and D.3.9(a) of Respondent's Part 70 permit require that Respondent maintain records of daily visible emission readings.

34. Respondent failed to completely record visible

emissions and failed to maintain complete visible emission records for units ST3, ST4, ST5, ST6, ST7, ST8, ST9, ST10, ST11 and ST12 from September 2002 until at least March 2005.

35. Respondent's failure to record and failure to maintain records of daily emission readings for units ST3, ST4, ST5, ST10, ST11, ST12, ST6, ST7, ST8, and ST9 as set forth above, constitutes violations of Conditions D.6.5(a), D.5.5(a), D.4.5(a), D.3.5(a), D.2.8(a), D.6.9(a), D.5.9(a), D.4.9(a), and D.3.9(a) of Respondent's Part 70 permit and Section 502(a) of the Act, 42 U.S.C. § 7661a(a).

**Count III - Baghouse Static Pressure Drop Recording**

36. Complainant incorporates paragraphs 1 through 22 of this complaint, as if set forth in this paragraph.

37. Conditions D.6.8, D.5.8., D.4.8, and D.3.8 of Respondent's Part 70 permit require that Respondent record the total static pressure drop across baghouses ST3, ST4, ST5, ST10, ST11, ST12, ST6, ST7, ST8 and ST9 at least once daily while the associated emission units are in operation.

38. Respondent failed to completely record daily static pressure drop for units ST3, ST5, ST6, ST7, ST8, ST9, ST10, ST11, and ST12, from September 2002 until at least March 2005.

39. Conditions D.6.9(b)(1)(A), D.5.9(b)(1)(A), D.4.9(b)(1)(A), and D.3.9(b)(1)(A) of Respondent's Part 70 permit require that Respondent maintain records of inlet and outlet differential static pressure at baghouses ST3, ST4, ST5, ST10, ST11, ST12, ST6, ST7, ST8 and ST9, during normal operations when venting to the atmosphere.



40. Respondent failed to maintain complete daily static pressure drop records for units ST3, ST5, ST6, ST7, ST8, ST9, ST10, ST11, and ST12, from September 2002 until at least March 2005.

41. Respondent's failure to record daily static pressure drop and failure to maintain daily static pressure drop records for units ST3, ST5, ST10, ST11, ST12, ST4, ST6, ST7, ST8, and ST9, as set forth above, constitutes violations of Conditions D.6.8, D.5.8., D.4.8, D.3.8, D.6.9(b)(1)(A), D.5.9(b)(1)(A), D.4.9(b)(1)(A), and D.3.9(b)(1)(A) of Respondent's Part 70 permit and Section 502(a) of the Act, 42 U.S.C. § 7661a(a).

**Count IV - Failure to Comply with Baghouse Pressure Drop**

42. Complainant incorporates paragraphs 1 through 22 of this complaint, as if set forth in this paragraph.

43. Conditions D.6.8, D.5.8., D.4.8, and D.3.8 of Respondent's Part 70 permit require that Respondent maintain pressure drop across baghouses ST3, ST4, ST5, ST6, ST7, ST8, ST9, ST10, ST11, and ST12 within the range of 2.0 and 5.0 inches of water.

44. Respondent failed to maintain pressure drop within the range of 2.0 and 5.0 inches of water for baghouses ST3, ST4, ST5, ST6, ST7, ST8, ST9, ST10, ST11, and ST12, at various times from September 2002 until at least March 2005.

45. Respondent's failure to maintain baghouse pressure drop within the range of 2.0 and 5.0 inches of water, as set forth above, constitutes violations of Conditions D.3.8, D.4.8, D.5.8, and D.6.8 of Respondent's Part 70 permit and Section 502(a) of

the Act, 42 U.S.C. § 7661a(a).

**Proposed Civil Penalty**

46. The Administrator must consider the factors specified in Section 113(e) of the Act when assessing an administrative penalty under Section 113(d). 42 U.S.C. § 7413(e).

47. Based upon an evaluation of the facts alleged in this complaint and the factors in Section 113(e) of the Act, Complainant proposes that the Administrator assess a civil penalty against Respondent of \$96,901. Complainant evaluated the facts and circumstances of this case with specific reference to U.S. EPA's Clean Air Act Stationary Source Penalty Policy dated October 25, 1991 (penalty policy). Enclosed with this complaint is a copy of the penalty policy.

48. Complainant developed the proposed penalty based on the best information available to Complainant at this time. Complainant may adjust the proposed penalty if the Respondent establishes bona fide issues of ability to pay or other defenses relevant to the penalty's appropriateness.

**Rules Governing This Proceeding**

49. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (the Consolidated Rules) at 40 C.F.R. Part 22 (2004) govern this proceeding to assess a civil penalty. Enclosed with the complaint served on Respondent is a copy of the Consolidated Rules.

**Filing and Service of Documents**

50. Respondent must file with the Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (E-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3511

51. Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Deborah Carlson to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Deborah Carlson at (312) 353-6121. Ms. Carlson's address is:

Deborah Carlson (C-14J)  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3511

**Penalty Payment**

52. Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, the United States of America", and by delivering the check to:

U.S. Environmental Protection Agency  
Region 5  
P.O. Box 70753  
Chicago, Illinois 60673

Respondent must include the case name and docket number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal

letter to Deborah Carlson and to:

Attn: Compliance Tracker, (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3511

**Opportunity to Request a Hearing**

53. The Administrator must provide an opportunity to request a hearing to any person against whom the Administrator proposes to assess a penalty under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2). Respondent has the right to request a hearing on any material fact alleged in the complaint, or on the appropriateness of the proposed penalty, or both. To request a hearing, Respondent must specifically make the request in its answer, as discussed in paragraphs 54 through 58 below.

**Answer**

54. Respondent must file a written answer to this complaint if Respondent contests any material fact of the complaint; contends that the proposed penalty is inappropriate; or contends that it is entitled to judgment as a matter of law. To file an answer, Respondent must file the original written answer and one copy with the Regional Hearing Clerk at the address specified in paragraph 50, above, and must serve copies of the written answer on the other parties.

55. If Respondent chooses to file a written answer to the complaint, it must do so within 30 calendar days after receiving the complaint. In counting the 30-day time period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a

Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

56. Respondent's written answer must clearly and directly admit, deny, or explain each of the factual allegations in the complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied.

57. Respondent's failure to admit, deny, or explain any material factual allegation in the complaint constitutes an admission of the allegation.

58. Respondent's answer must also state:

- a. the circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. the facts that Respondent disputes;
- c. the basis for opposing the proposed penalty; and
- d. whether Respondent requests a hearing as discussed in paragraph 53 above.

59. If Respondent does not file a written answer within 30 calendar days after receiving this complaint the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order without further proceedings 30 days after the order becomes the final order of the Administrator of U.S. EPA under Section 22.27(c) of the Consolidated Rules.

Settlement Conference

60. Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this proceeding and to arrive at a settlement. To request an informal settlement conference, Respondent may contact Deborah Carlson at the address or phone number specified in paragraph 51, above.

61. Respondent's request for an informal settlement conference does not extend the 30 calendar day period for filing a written answer to this complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal conference. U.S. EPA, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

Continuing Obligation to Comply

62. Neither the assessment nor payment of a civil penalty will affect Respondent's continuing obligation to comply with the Act and any other applicable federal, state, or local law.

September 29, 2005  
Date

J. Berlin  
Stephen Rothblatt, Director  
Air and Radiation Division  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3511

CAA-05- 2005 - 0058

*[Handwritten signature]*

In the Matter of Anchor Glass  
Docket No.

CAA-05-2005-0058 *gzw*  
CERTIFICATE OF SERVICE

CAA-05-2005-0058 *gzw*  
I, Betty Williams, certify that I hand delivered the original and one copy of the Administrative Complaint, docket number \_\_\_\_\_ to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies of the Administrative Complaint, copies of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* at 40 C.F.R. Part 22, and copies of the penalty policy described in the Administrative Complaint by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent and Respondent's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Gordon Stewart  
Vice President, Engineering  
Anchor Glass Container Corporation  
4343 Anchor Plaza Parkway  
Tampa, Florida 33634

Mary Ann Saggese  
Plews Shadley Racher & Braun  
1346 North Delaware Street  
Indianapolis, Indiana 46202-2415

on the 29<sup>th</sup> day of September, 2005.

US ENVIRONMENTAL  
PROTECTION AGENCY  
REGION V

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RECEIVED  
REGIONAL HEARING CLERK  
SEP 29 2005

*Betty Williams*  
Betty Williams, Secretary  
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320 00060295294